

§ 2. Demonstrations and Disturbances

Federal statutory provisions⁽⁵⁾ make violent, disorderly or disruptive acts in the Capitol building or on the Capitol grounds unlawful, as well as prohibiting all unauthorized demonstrations. The unauthorized possession or use on the Capitol grounds of any firearm, dangerous weapon, explosive, or incendiary device is unlawful.⁽⁶⁾ The unauthorized presence of any person or any group of persons upon the floor or in the gallery of either House of Congress is a violation of federal statutory law, as is unauthorized presence in any room within any of the Capitol buildings set aside or designated for the use of either House of Congress or any Member, committee, subcommittee, officer, or employee of either House of Congress, with the intent to disrupt the orderly conduct of official business.⁽⁷⁾ It is also unlawful to willfully and knowingly utter abusive language at any place upon the Capitol grounds with the intent to disturb the orderly conduct of any session of either House of Congress, including committee or subcommittee hearings;

5. 40 USC §§ 193f and 193g (1970).

6. 40 USC § 193f(a)(1) (1970).

7. 40 USC § 193f(b)(1)–(3) (1970).

to impede passage through or within the Capitol grounds or Capitol buildings; to engage in any act of physical violence upon the Capitol grounds or within any of the Capitol buildings; or to parade, demonstrate, or picket within any of the Capitol buildings.⁽⁸⁾

On Nov. 6, 1972,⁽⁹⁾ the Supreme Court ruled that section 193g of title 40 unconstitutionally abridges the first amendment right to assemble and petition the government. Section 193g provides:

It is forbidden to parade, stand, or move in processions or assemblages in said United States Capitol Grounds, or to display therein any flag, banner, or device designed or adapted to bring into public notice any party, organization, or movement, except as hereinafter provided in sections 193j and 193k of this title.

Sections 193j and 193k provide that on “proper occasions” the prohibitions contained in sections 193b-193g may be suspended by the President of the Senate and the Speaker of the House, or in their absence by the Capitol Police Board.

The Jeannette Rankin Brigade, a coalition of women against the

8. 40 USC § 193f(b)(4)–(7) (1970).

9. *Chief of Capitol Police v Jeannette Rankin Brigade*, 409 U.S. 972 (Nov. 6, 1972).

war in Vietnam, and 58 individual women filed a complaint in the United States District Court for the District of Columbia on Jan. 8, 1968, following the refusal by the Capitol Police Board to permit them to carry out a planned march on the Capitol grounds to protest the war. The three-judge court balanced the plaintiffs' right to assemble and petition the government under the First Amendment against the interests of maintaining the serenity of the Capitol grounds and concluded:

While some substantial governmental interests in the Capitol Grounds may warrant protection, none have been alleged which are sufficiently substantial to override the fundamental right to petition "in its classic form" and to justify a blanket prohibition of all assemblies, no matter how peaceful and orderly, anywhere on the Capitol Grounds.⁽¹⁰⁾

The court refused to rewrite the provision to make it consistent with the First Amendment rights of the plaintiffs, stating that under the concepts embodied in the separation of powers doctrine, such a function is more appropriately to be performed by Congress.⁽¹¹⁾

The defendants took a direct appeal from the decision of the Dis-

trict Court to the Supreme Court. The Supreme Court, acting without a hearing and with no written opinion, affirmed the decision of the District Court holding section 193g to be unconstitutional.⁽¹²⁾

On Mar. 1, 1954,⁽¹³⁾ an extraordinary incident occurred in the House Chamber. A discharge of firearms from the House Gallery interrupted the counting of a division vote on a resolution relating to the supplying of agricultural workers from Mexico. Four Puerto Rican terrorists in Gallery Eleven fired an estimated 20 to 30 pistol shots downward into the crowd of Members on the floor. Five Members were wounded. All five of the wounded Members were discharged from the hospitals by the end of May, 1954.

The four assailants were identified by police as belonging to the Puerto Rican Nationalist Party. They were brought to trial in the U.S. District Court for the District of Columbia. Three of the four were sentenced to serve a total of from 25 to 75 years in prison, while the fourth was sentenced to serve from 16 years and months to 50 Years.

10. *Jeannette Rankin Brigade v Chief of Capitol Police*, 342 F Supp 575, 585 (D.D.C. 1972).

11. 342 F SUPP at 587.

12. *Chief of Capitol Police v Jeannette Rankin Brigade*, 409 U.S. 972 (Nov. 6, 1972).

13. 100 CONG. REC. 2434, 83d Cong. 2d Sess.